

October 12, 2005

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Gary Taverman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results in
the Eighth New Shipper Review of Certain Preserved
Mushrooms from the People's Republic of China

SUMMARY:

We have analyzed the July 28, 2005, surrogate value commentary submitted by Blue Field (Sichuan) Food Industrial Co., Ltd. ("Blue Field") in the eighth new shipper review of certain preserved mushrooms from the People's Republic of China ("PRC"). As a result of our analysis, we have made certain minor changes to our preliminary findings in Certain Preserved Mushrooms from the People's Republic of China: Preliminary Results of the Eighth New Shipper Review, 70 FR 42034 (July 21, 2005) ("Preliminary Results").

Below is a complete list of the issues on which we have received comments from Blue Field:

- Comment 1: Appropriate surrogate value for tin plate
- Comment 2: The Department should not adjust the surrogate labor rate for inflation
- Comment 3: The Department should revise mistakes made in its surrogate factory overhead, SG&A, and profit ratio calculations

Background

The period of review (“POR”) is February 1, 2004, through July 31, 2004. The Department of Commerce (“the Department”) conducted a verification of Blue Field from January 10 through January 14, 2005. We published the Preliminary Results of the eighth new shipper review in the Federal Register on July 21, 2005. On July 28, 2005, Blue Field submitted comments on the surrogate values the Department used in the Preliminary Results. Neither the Coalition for Fair Preserved Mushroom Trade (“petitioners”) nor Blue Field submitted case briefs after the publication of the Preliminary Results. There was no hearing in this case.

Changes Since the Preliminary Results

Based on the discussions below, we have made revisions to the data used in the final results.¹

DISCUSSION OF THE ISSUES:

COMMENT 1: Appropriate surrogate value for tin plate

In the Preliminary Results, the Department valued tin plate by inflating January 2002 – December 2002 World Trade Atlas import data from HTS subheading 72101202 (“Stainless steel plates, sheets, strips”). Blue Field argues that the Department should use a different HTS number in its valuation of tin plate for the final results. Specifically, Blue Field indicates that data from HTS subheadings 721012 (“Flat-rolled products of iron or nonalloy steel, of a width of 600 mm (23.6 in) or more, clad, plated or coated: Of a thickness of less than 0.5 mm (0.02 in)”), 72101210 (“OTS/MR Type”), or 72101290 (“Other plates, sheets, strips”) would be more appropriate for this input because POR-contemporaneous import statistics are available for each, eliminating the need for an inflation adjustment. Additionally, Blue Field argues that the two HTS subheadings are more product-specific to the tin plate it utilized in the production of subject merchandise. Finally, the respondent contends that, given the significant role of canning and can-making in the food processing industry, it is likely that India used some portion of the imported tin plate referenced in its three suggested HTS subheadings for can-making.

Petitioners did not comment on this issue.

Department’s Position:

The Department notes that there is no substantial evidence on the record to indicate which of the three different HTS numbers is specific to the can-making raw material Blue Field used in its production of subject merchandise. However, because the HTS

¹ For further details, please see the Blue Field Final Analysis Memorandum dated October 12, 2005, which is on file in Import Administration’s Central Records Unit, room B-099 of the Department of Commerce building.

subheading the respondent suggests contains import data contemporaneous with the POR in this case, the Department valued tin plate by using data from HTS 721012 (which only includes data from subcategories 72101210 and 72101290).

COMMENT 2: The Department should not adjust the surrogate labor rate for inflation

In the Preliminary Results, the Department used a regression-based wage rate calculation to value labor. The Department indicated that because the wage rate data used in its calculation was not contemporaneous with the POR, it had adjusted the rate for inflation. Blue Field cites Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers from the People's Republic of China, 69 Fed. Reg. 20594 (April 16, 2004) and Issues and Decision Memorandum at Comment 4 to support its argument that the adjustment runs counter to the Department's normal methodological approach of not adjusting surrogate labor rates for inflation. The respondent also refers to the United States' June 15, 2005, Motion for Voluntary Remand to correct the China labor wage rate, in Lacquer Craft Manufacturing Company, Ltd. v. United States, Court No. 05-00083, to argue that the Department should correct errors in its wage rate calculation for the final results.

Petitioners did not comment on this issue.

Department's Position:

For the final results, the Department has used a revised 2004 calculation of expected non-market economy ("NME") wage rates to value labor. As noted in Memorandum from Stephen F. Berlinguette, International Trade Compliance Analyst, to Amber Musser, Acting Program Manager, regarding Certain Preserved Mushrooms from the People's Republic of China New Non-Market Economy Wage Rates, (August 24, 2005), the Department has revised its 2004 calculation of expected NME wages in accordance with the voluntary remand requested in the ongoing litigation in Wooden Bedroom Furniture from the People's Republic of China: Final Results of Redetermination Pursuant to Court Remand Orders, Court Nos. 05-00003 (June 1, 2005); 05-00083 (June 20, 2005) ("Wooden Bedroom Furniture from the PRC Remand Redetermination"). See also the Department's request for a remand in Taiyan Ziyang Food Company, Ltd., et.al. v. United States, Court No. 05-00399. This revision to the Department's 2004 calculation of expected NME wage rates corrects errors in the 2004 calculation, which itself was not consistent with the Department's normal methodology and contained a number of errors.

Specifically, as discussed in the Wooden Bedroom Furniture from the PRC Remand Redetermination, in October 2004 the Department posted an updated wage rate data set but did not rely upon this data set when calculating expected NME wage rates for 2004. Instead, the Department erred in October 2004 by relying on the regression analysis from the prior year's (2003) calculation of expected NME wage rates. The October 2004 wage rate data set, and expected NME wage rates posted in November 2004, attempts to correct the Department's error. However, the Department has acknowledged that the

November 2004 wage rate calculation was also in error because the Department did not rely on the most recent data available.

Accordingly, the Department's revised 2004 calculation of expected NME wage rates is consistent with its normal methodology, based upon the data available as of December 2004. See <http://ia.ita.doc.gov>. Therefore, for the final results of this review, the Department has valued labor with its expected NME wage rate for China of USD 0.85 per hour, and has not made an adjustment for inflation as was done in the Preliminary Results.

COMMENT 3: The Department should revise mistakes made in its surrogate factory overhead, SG&A, and profit ratio calculations

In the Preliminary Results, the Department used data from the 2003 – 2004 financial reports of Indian subject merchandise producers Flex Foods Ltd. (“Flex Foods”) and Agro Dutch Industries (“Agro Dutch”) to calculate surrogate ratios for factory overhead, SG&A, and profit.

a) The Department used the wrong value for Raw Materials

Blue Field points out that the Department used the wrong figure for “Consumption of Raw Materials.” According to the respondent, the correct entry for raw material consumption should have come from Agro Dutch's Profit & Loss Statement, which includes all raw materials consumed, rather than the entry the Department used, labeled “CIF Value of Imports” from the same source.

Petitioners did not comment on this issue.

Department's Position:

We agree with the respondent and have corrected this clerical error in the calculation of the SG&A surrogate value for the final results of this review.

b) The Department should add “job work” expenses to the denominator

Blue Field states that the Department inadvertently excluded “job work” expenses from the denominator. The Department, according to Blue Field, normally adds “job work” expenses to salaries plus labor to calculate a total labor cost, but neglected to do so for the Preliminary Results of this review.

Petitioners did not comment on this issue.

Department's Position:

We agree with the respondent and have corrected this clerical error in the calculation of the SG&A surrogate value for the final results of this review.

c) The SG&A depreciation calculation is wrong

Blue Field asserts that the Department incorrectly used data from the “Gross Block - Total” column instead of that from the “Depreciation Block - During the Period” column

in calculating SG&A depreciation. Blue Field contends that this error resulted in the Department mistakenly charging Blue Field with Agro Dutch's entire asset value, rather than the period-specific portion that is typically charged.

Petitioners did not comment on this issue.

Department's Position:

We agree with the respondent and have corrected this clerical error in the calculation of the SG&A surrogate value for the final results of this review.

d) The Department should exclude discounts and rebates from the calculation of the surrogate SG&A ratios

Blue Field contends that the Department neglected to exclude "Rebate & Discount" amounts from Flex Foods' financial statements when it calculated the surrogate SG&A ratio in the Preliminary Results. Blue Field cites precedent which it argues shows that the Department typically rejects discounts and rebates from its SG&A calculation sources because it views these items as price adjustments which are separately valued in the calculation of normal value; specifically, Blue Field cites to Certain Color Television Receivers from the PRC, 69 Fed. Reg. 20594 (April 16, 2004) (Issues and Decision Memorandum, Comment 15); Tapered Roller Bearings and Parts Thereof, 63 Fed. Reg. 63842, 63852 (November 17, 1998). Blue Field recommends that the Department remove discounts and rebates from Flex Foods' financial data in its calculation of a surrogate SG&A ratio for the final results.

Petitioners did not comment on this issue.

Department's Position:

We agree with the Blue Field and have corrected this clerical error in the calculation of the SG&A surrogate value for the final results of review.

e) The Department should include an interest income offset to the financial expenses included in the calculation of the surrogate SG&A ratios

Blue Field argues that in the Preliminary Results the Department failed to include an offset adjustment for interest income in the SG&A calculation. The respondent suggests that this approach contradicts Department practice, citing Certain Color Television Receivers from the PRC, 69 Fed. Reg. 20594 (April 16 2004) (Issues and Decision Memorandum, Comment 17).

Petitioners did not comment on this issue.

Department's Position:

We disagree with the respondent. We will not offset financial expenses included in the calculation of SG&A expenses with any portion of interest income. It is the Department's practice to grant an offset to SG&A for interest income for short-term interest income only. However, it is not the Department's practice to attempt to distinguish between short-term and long-term interest income when the surrogate

company's financial statements do not explicitly differentiate between the two; instead we simply apply the offset only to short-term interest expenses that appear on the face of the financial statement line items. See Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review 70 Fed. Reg. 54361 (September 14, 2005), and accompanying Issues and Decisions Memorandum at Comment 2.

Because the Agro Dutch and Flex Foods financial statements do not have separate line items for short-term and long-term interest, we do not know the exact nature of the line items for other income or interest income; therefore, we have no way of establishing the amount of short-term interest income with any degree of certainty. Consequently, we have not allowed any offset for interest income in this case.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the Federal Register.

Agree _____ Disagree _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date